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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,993	02/14/2002	George C. Myers III		6637
7590	03/09/2004		EXAMINER	
George C. Myers, Jr. 197 Elighth street Apt 212 Charlestown, MA 02129			WILLATT, STEPHANIE L	
			ART UNIT	PAPER NUMBER
			3732	S
DATE MAILED: 03/09/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/073,993	MYERS, GEORGE C.
	Examiner Stephanie L. Willatt	Art Unit 3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 January 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3, 10 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3, 10 and 15-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 February 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 48. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claims 1-3, 10, and 15-20 are objected to because of the following informalities: lines 1-2 of claim 1 and claim 15 state that the "hair is adapted to be wrapped". This statement sounds as though the hair is being claimed, which is not allowed, since it is a part of the human body. A solution to this problem would be to delete "about which hair is adapted to be wrapped" and to insert --, which is adapted to have hair wrapped about it--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-3, 15, 16, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett.

Barrett discloses a hair curler (roller R) comprising a body portion about which hair may be wrapped (Figure 1). A means for holding the hair to the body portion is described in column 4, lines 10-28. Barrett does not disclose an animal head portion or hind portion attached to the body. However, Barrett discloses an ornament (O) on each side of the body portion in Figures 3 and 4. The plastic ornaments (O) are illustrated as a flower, but column 2, lines 50-53 state that the ornament can be "a flower or any similar decorative item". It would have been obvious to one having ordinary skill in the art at the time the invention was made to include an animal head portion and an animal hind portion in place of the flower ornaments, since it has been held that mere addition of an ornamental element which has no mechanical function involves only routine skill in the art. *In re Seid*, 73 USPQ 431 (CCPA 1947).

5. Claims 10, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett in view of Catania.

Barrett discloses the features discussed above, but does not disclose that the body portion comprises a mesh covered coil spring surrounding a bristle brush. Catania discloses a hair curler body portion (roller 12) including a mesh covered coil spring (46) surrounding a bristle brush (50), as described in column 2, lines 35-43. A pin (bottom member 14) passes through the mesh covered coil spring (46) and the bristle brush (50), as shown in Figure 2. It would have been obvious to one having ordinary skill in

the art at the time the invention was made to substitute the body portion of Catania for the body portion of Barrett, since it is an art recognized equivalent.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Huang discloses a hair fastener comprising a coil spring and an ornament on each end of the spring. Loftice discloses hair curlers with decorated pins extending through them. Jones discloses a comb including a dog head portion attached to one end. Daniels discloses a comb with a squirrel attached to one end. Stewart discloses a hair device shaped as an animal. Gumb discloses a comb including a rabbit head on one end and a rabbit tail on the opposite end. Grooms discloses a curler with ornaments on its ends.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is 703-305-6316. The examiner can normally be reached on M-F (8:30-6:00) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on 703-308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*JZN*  
slw

*Kevin Shaver*  
KEVIN SHAVER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700